

HASSEL ALBERT COE,)
)
Plaintiff,)
) Civil Action No. 7:13cv064
v.)
)
CAROLYN W. COLVIN,) By: Michael F. Urbanski
Commissioner of Social Security,) United States District Judge
)
Defendant.)

This social security disability appeal was referred to the Honorable Robert S. Ballou, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b)(1)(B), for proposed findings of fact and a recommended disposition. The magistrate judge filed a report and recommendation on July 7, 2014, recommending that plaintiff's motion for summary judgment be denied, the Commissioner's motion for summary judgment be granted and the Commissioner's final decision be affirmed. Plaintiff has filed objections to the report, and this matter is now ripe for the court's consideration.

Rule 72(b) of the Federal Rules of Civil Procedure permits a party to “serve and file specific, written objections” to a magistrate judge’s proposed findings and recommendations within fourteen days of being served with a copy of the report. See also 28 U.S.C. § 636(b)(1). The Fourth Circuit has held that an objecting party must do so “with sufficient specificity so as reasonably to alert the district court of the true ground for the objection.” United States v. Midgette, 478 F.3d 616, 622 (4th Cir.), cert denied, 127 S. Ct. 3032 (2007).

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court would then have to review every issue in the magistrate judge's proposed findings and recommendations or courts of appeals would be required to review issues that the district court never considered. In either case, judicial resources would be wasted and the district court's effectiveness based on help from magistrate judges would be undermined.

Id. The district court must determine de novo any portion of the magistrate judge's report and recommendation to which a proper objection has been made. "The district court may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." Fed. R. Civ. P. 72(b)(3); accord 28 U.S.C. § 636(b)(1).

If, however, a party "makes general or conclusory objections that do not direct the court to a specific error in the magistrate judge's proposed findings and recommendations," de novo review is not required. Diprospero v. Colvin, No. 5:13-cv-00088-FDW-DSC, 2014 WL 1669806, at *1 (W.D.N.C. Apr. 28, 2014) (quoting Howard Yellow Cabs, Inc. v. United States, 987 F. Supp. 469, 474 (W.D.N.C. 1997) (quoting Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982))). "The court will not consider those objections by the plaintiff that are merely conclusory or attempt to object to the entirety of the Report, without focusing the court's attention on specific errors therein." Camper v. Comm'r of Soc. Sec., No. 4:08cv69, 2009 WL 9044111, at *2 (E.D. Va. May 6, 2009), aff'd, 373 F. App'x 346 (4th Cir.), cert. denied, 131 S. Ct. 610 (2010); see Midgette, 478 F.3d at 621 ("Section 636(b)(1) does not countenance a form of generalized objection to cover all issues addressed by the magistrate judge; it contemplates that a party's objection to a magistrate judge's report be specific and particularized, as the state directs the district court to review only *'those portions of the report or specified proposed findings or recommendations to which to which objection is made.'*"). Such general objections "have the same effect as a failure to object, or as a waiver of such objection." Moon v. BWX Technologies, 742 F. Supp. 2d 827, 829 (W.D. Va. 2010), aff'd, 498 F. App'x 268 (4th Cir. 2012); see also Thomas v. Arn, 474 U.S. 140, 154 (1985) ("[T]he statute does not require the judge to review an issue de novo if no objections are filed").

Additionally, objections that simply reiterate arguments raised before the magistrate judge are considered to be general objections to the entirety of the report and recommendation. See Veney v. Astrue, 539 F. Supp. 2d 841, 844-45 (W.D. Va. 2008). As the court noted in Veney:

Allowing a litigant to obtain de novo review of [his] entire case by merely reformatting an earlier brief as an objection “mak[es] the initial reference to the magistrate useless. The functions of the district court are effectively duplicated as both the magistrate and the district court perform identical tasks. This duplication of time and effort wastes judicial resources rather than saving them, and runs contrary to the purposes of the Magistrates Act.” Howard [v. Sec’y of Health & Human Servs.], 932 F.2d [505,] [] 509 [(6th Cir. 1991)].

539 F. Supp. 2d at 846. A plaintiff who reiterates his previously-raised arguments will not be given “the second bite at the apple [h]e seeks;” instead, his re-filed brief will be treated as a general objection, which has the same effect as would a failure to object. Id.

II.

Coe objects, without any elaboration or specificity, to the following findings of the magistrate judge: (1) that the Administrative Law Judge’s (ALJ) opinion was supported by substantial evidence; (2) that the ALJ properly evaluated the evidence related to Coe’s mental impairments and other non-exertional limitations and accounted for those impairments in his residual functional capacity determination; and (3) that the ALJ did not err in determining that substantial jobs exist in the national economy that Coe can perform. Pl.’s Objections, Dkt. # 21.

Coe’s first objection is plainly a general objection to the entirety of the report, which does not warrant de novo review by the court. Midgette, 478 F.3d at 621; Diprospero, 2014 WL 1669806, at *1; Camper, 2009 WL 9044111, at *2. Coe’s second two objections are essentially abridged versions of the two arguments he raised in his motion for summary judgment and are, at best, conclusory. As such, they do not require de novo review. Veney, 539 F. Supp. 2d at 844-46. These issues were addressed by the magistrate judge when the case was before him on the parties’

cross motions for summary judgment. For the reasons ably stated in his report, the magistrate judge concluded that the ALJ's decision is supported by substantial evidence.

The court has reviewed the magistrate judge's report and the face of the record for clear error and, finding none, will adopt the report in its entirety. An appropriate Order will be entered to that effect.

Entered: July 15, 2014

/s/ Michael F. Urbanski

Michael F. Urbanski
United States District Judge